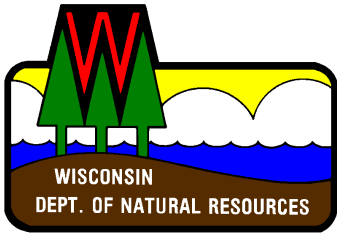


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# 8-Hour Ozone NAAQS Litigation

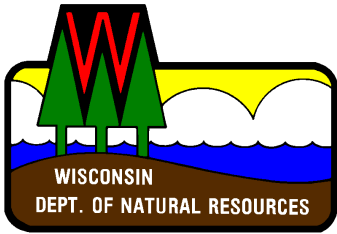
Implications of March 26 Ruling by the  
US Court of Appeals for the DC Circuit



## 8-Hour Ozone NAAQS Litigation

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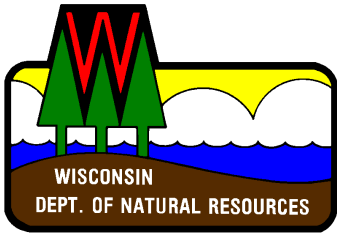
- ◆ What did the DC Circuit Court do?
  - ◆ Denied industry petitions on the 8-hr ozone standard.
  - ◆ Denied industry and environmentalist petitions on fine particle standards
  - ◆ EPA was not arbitrary and capricious in setting the standards.
  - ◆ Standard setting was supported by the record.



## 8-Hour Ozone NAAQS Litigation

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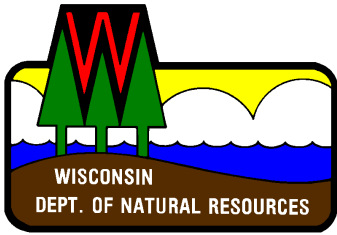
- ◆ Are there any outstanding legal issues?
  - ◆ EPA must develop a “legal” implementation plan for ozone.
  - ◆ EPA must finalize their rulemaking on the UV-B issue.
  - ◆ EPA expects to be sued on both actions.
  - ◆ EPA must finish review of PM<sub>2.5</sub> standards before they are implemented.



## 8-Hour Ozone NAAQS Litigation

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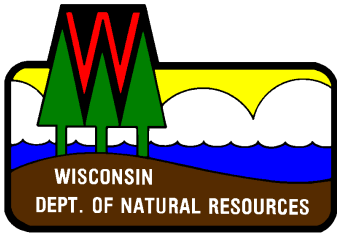
- ◆ What does this mean for air quality?
  - ◆ Victory for clean air and Wisconsin citizens.
  - ◆ The 8-hour ozone and PM<sub>2.5</sub> standard will provide health protection.
  - ◆ Ozone can lead to lung disease, decreased lung function and trigger asthma attacks.
  - ◆ PM<sub>2.5</sub> leads to lung disease, heart disease and premature death.



## 8-Hour Ozone NAAQS Litigation

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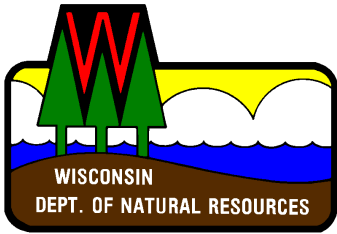
- ◆ What does the ruling mean for Wisconsin's air quality regulations?
  - ◆ Paves the way for implementing the new standards.
  - ◆ Current data indicates 12 counties may be designated 8-hour ozone nonattainment areas.
  - ◆ No PM<sub>2.5</sub> nonattainment areas
  - ◆ Control programs are uncertain at this time.



## 8-Hour Ozone NAAQS Litigation

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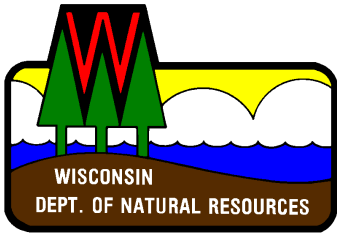
- ◆ What are the issues for resolution of 8-hour implementation plan?
  - ◆ Structure of implementation policy ... subpart 1 v. subpart 2
  - ◆ Nonattainment classification structure
  - ◆ Mandatory control measures v. flexibility
  - ◆ Reasonably available control measures & progress requirements



## 8-Hour Ozone NAAQS Litigation

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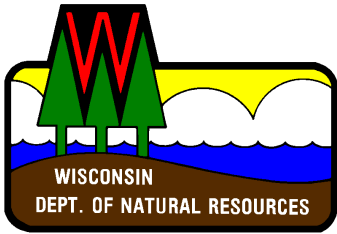
- ◆ What are the issues for resolution of 8-hour implementation plan? (Continued)
  - ◆ Attainment dates
  - ◆ Credit for early reductions
  - ◆ New source review (NSR) and transportation conformity
  - ◆ Planning for and dealing with ozone transport



## 8-Hour Ozone NAAQS Litigation

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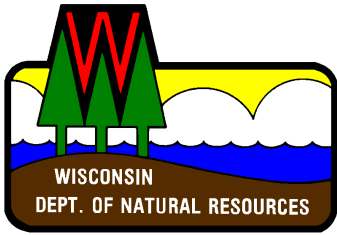
- ◆ What will happen now?
  - ◆ 7/02 - EPA finalizes UV-B action.
  - ◆ 9/02 - EPA develops draft implementation plans for ozone and PM2.5.
  - ◆ 9/03 - EPA finalizes implementation plans for ozone and PM2.5.
  - ◆ 2004 - EPA proposes nonattainment areas.



## 8-Hour Ozone NAAQS Litigation

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- ◆ What will happen now? (Continued)
  - ◆ 2005 - EPA finalizes nonattainment areas
  - ◆ 2008 - States submit comprehensive plans to attainment ozone and PM<sub>2.5</sub> standards and reduce haze.



## 8-Hour Ozone NAAQS Litigation

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- ◆ Is there anything that can be done to avoid nonattainment designation?
  - ◆ DNR's ability to implement control plans prior to nonattainment designation limited by state law.
  - ◆ Can implement various types of voluntary measures.
  - ◆ Multi-pollutant legislation.